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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,374	01/14/2002	Taka Migimatsu	017991-000211US	7420
30968 7590 09/26/2007 ZYTEK COMMUNICATIONS CORPORATION ONE MARKET STREET, SPEAR TOWER SUITE 3600 SAN FRANCISCO, CA 94105			EXAMINER JAIN, RAJ K	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 09/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/047,374

Applicant(s)

MIGIMATSU, TAKA

Examiner

Raj K. Jain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 31-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 31-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****General Remarks***

Applicant contends under "Remarks" on page 7 submitted on July 26, 2007 that the cited reference (Mordowitz USP 6,011,794 filed on September 9, 1996) post dates Applicants date of invention. However, upon careful review by the Examiner, the earliest filing date of Applicants invention based on the Provision application 60/033,416 filed is believed to be November 15, 1996. However, if Applicant believes this to be an error, Applicant is advised to provide appropriate evidence to that effect. Thus, based on the foregoing, Applicant's date of invention is considered to be November 15, 1996, and therefore the Mordowitz reference is believed to be valid and applied accordingly.

***Claim Objections***

Claims 1,5, 31, 35, 38, 40, 42, 45 and 50 objected to because of the following informalities: The subject claims recite the phrase "such as", this does not limit the scope of the claim. Appropriate correction is required.

Claims 5, 31, 36, 42, 45 and 50 objected to because of the following informalities: The acronym "PSTN" must be completely spelled out as it first appears either in an independent claim or a dependent claim which ever comes first. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 31-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mordowitz et al (US 006011794A) in view of McLaughlin et al (USP 5,905,476).

Regarding claims 1, 4, 34, 40 and 43, Mordowitz discloses a system (Fig. 1) for transmitting 16, 24 and receiving 16, 24 voice messages from a caller over a network (see Fig. 1, which illustrates a caller (say 16 in NY) to another caller or receiver 24 (say in London) which transmit and receive voice messages via the internet 14, see col 3 lines 1-10.), said system comprising:

a first access device 10 (Fig.1), coupled to a network 14 and to a first communication medium (line between 10 and 16), (Fig. 1, illustrates access devices 10, 20 at either ends of the network system coupled via the internet 14 and both access devices connected to analog phones 16, 24 respectively via the phone lines.);

a first access device 10 (fig. 1) comprising a voice encoding device 34 (Fig. 2) configured to receive a first voice signal from a first voice device 16 and generate digital message file (see Figs. 1 and 2, access devices 10, 20 have a codec 34 for converting voice into digital data or message file and vice versa, see col 2 lines 36-41, col 3 lines 32-35.); and

a transmission device 40 (Fig. 2) for transmission of said digital message file through said network 14 (see Fig. 2, the access devices 10, 20 include transmission and receiving device 40 for transmission of digital data converted by the codec 34 to the network 14, see col 3 lines 33-49, transmission of digital message is performed after conversion by the codec 34.).

Further with respect to claim 34, Mordowitz discloses a storage device 32, 33 (Fig. 2) for storing digital data or message file and retrieving device 30 for retrieving and delivery of digital message file to voice devices 16 and 24 as appropriate (see col 3 lines 25-33, 60-64, col 6 lines 19-24.)

Mordowitz fails to explicitly disclose a digital message file.

McLaughlin discloses a digital message file (abstract, col 4 line 51 – col 5 line 22, col 7 lines 42-55). While Mordowitz discloses a MODEM, however, replacing Mordowitz's modem with McLaughlin's improved ITU/TDD/VOICE modem would enhance the overall network performance by providing an answering machine system in one overall device. Thus it would have been obvious at the time the invention was made to incorporate the teachings of McLaughlin within Mordowitz and thus improving overall network performance by providing an answering machine system in one overall device.

Regarding claims 2, 35, and 38, Mordowitz discloses the network as the Internet (see Fig. 1, ISP 11 connected to internet via line 14, see col 1 line 54 – col 2 line 3.).

Regarding claims 5, 31, 36, 41 and 42, Mordowitz discloses said first voice device 16 is a telephone and said first telecommunication medium is a telephone line

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(see Fig. 1, voice devices 16, 24 connected with public switched telephone lines 15 to access devices 10, 20 (see col 3 lines 1-18.).

Regarding claim 32, Mordowitz discloses a second access device 20 (Fig. 1), said second access device being coupled to network 14 and to a second telecommunication medium (line between 20 and 24), wherein said second access device 20 includes a receiving device 40 (Fig. 2) for receiving digital data from said network 14, (see Figs. 1 and 2, a second access device (say 20) is coupled to the network 14 which has telephone line between telephone 24 and 20. The access device 20 includes a receiving device 40 for receiving incoming digital data and a storage device 32, 33 for storing of digital data, see col 3 lines 1-49, 60-64, col 6 lines 19-24.). The voice decoding device 20 generates the second voice signal after receiving device 11 receives the digital message.

Regarding claim 33, 39, Mordowitz discloses second access device 20 (Fig. 1) The access device 20 includes a receiving device 40 for receiving incoming digital data and a storage device 32, 33 for storing of digital data, (col 3 lines 1-49, 60-64, col 6 lines 19-24.).

Regarding claim 37, Mordowitz discloses a second access device 20 (fig. 1), said second access device being coupled to network 14 and to a second telecommunication medium (line between 20 and 24), wherein said second access device 20 includes a voice conversion device 34 (Fig. 2) for converting a voice signal received from a second voice device 24 into digital data; and wherein said second access 20 device includes a transmission device 40 for transmission of said digital data

through said network (see Figs. 1 and 2, col 2 lines 25-41, col 3 lines 33-49, the second access device 20 coupled to internet 14 includes a D/A converter 34 for converting voice signals into digital data and vice versa and which is transmitted via the modem transmitter 40 through the network 14.).

Regarding claims 44, 46-49, 51 and 52 Mordowitz discloses a storage devices 32, 33 (Fig. 2) for storing digital data.

Regarding claims 45 and 50 Mordowitz discloses second voice device (24) (Fig. 1) as telephone with a telephone line from 20 to 24 with communication medium PSTN 15.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4, 5, 31-52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

***Raj K. Jain***

***/Raj K. Jain/***

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September 17, 2007